

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TIMOTHY WILSON, JR.,

Plaintiff,

vs.

ARTHUR STANLEY,

Defendant.

Case No. 16-cv-0125-SMY-DGW

MEMORANDUM AND ORDER

This matter is before the Court for sua sponte review of Defendant Arthur Stanley's Notice of Removal (Doc. 2) and Stanley's Amended Notice of Removal (Doc. 5). For the following reasons, this matter is **REMANDED** to the Twentieth Judicial Circuit Court of St. Clair County, Illinois.

Removal is proper where the District Court has original jurisdiction. 28 U.S.C. §1441(a). District Courts have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. 28 U.S.C. §1331. Additionally, federal courts have original jurisdiction if there is a federal question or diversity of citizenship. 28 U.S.C. §§1331-1332; *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). "Only state-court actions that originally could have been filed in federal court may be removed to federal court by the defendant." *Id.* The presence or absence of a federal question is governed by the "well-pleaded complaint" rule, which provides that federal jurisdiction exists only when a federal question is presented on the face of a plaintiff's properly pleaded complaint. *Id.*

In his notice and amended notice, Defendant claims that certain state court proceedings violate the Due Process Clause of the United States Constitution. However, the basis of Plaintiff's state court Complaint is an action for Forcible Entry and Detainer under Illinois

statutory law (Doc. 2). Defendant cannot create a federal question in his Notice of Removal or Amended Notice of Removal when no federal question is presented on the face of Plaintiff's state court Complaint. Thus, this Court lacks subject matter jurisdiction over this matter.

For the foregoing reasons, the Court **REMANDS** this cause back to the Circuit Court for the Twentieth Judicial Circuit, St. Clair County, Illinois. In light of this Order, all other pending motions in this case are **DENIED as moot**.

IT IS SO ORDERED.

DATED: April 28, 2016

s/ Staci M. Yandle
STACI M. YANDLE
DISTRICT JUDGE